**THE HON'BLE SRI JUSTICE C.V. RAMULU**

Wednesday, 7th day of March,2007

**W.P.No.35083 of 1997**

Between:-

I.N. Reddy … Petitioner

and

Chairman-cum-Presiding
Officer, Industrial Tribunal-cum-
Labour Court, Anantapur and another … Respondents

**THE HON'BLE SRI JUSTICE C.V. RAMULU**

**W.P.No.35083 of 1997**

**ORAL ORDER:**

This Writ Petition is filed being aggrieved by an Award dated 8-1-1997 passed in I.D.No.161 of 1995 on the file of the Industrial Tribunal-cum-Labour Court, Anantapur insofar as denying back wages, attendant benefits and further imposing the punishment of deferment of two annual increments with cumulative effect.

It appears, petitioner is a Conductor attached to A.P. State Road Transport Corporation Bus Depot, Tirupathi-I. While so, when he was conducting bus on the route Chittoor to Tirupathi via Pennumur, a check was exercised by the checking officials at stage 11/10 i.e. Chipparapalle and issued a charge memo dated 2-7-1994 alleging certain cash and ticket irregularities. Basing on the said charge memo, a charge sheet dated 12-7-1994 was issued enumerating the following charges:

1. For having collected Rs.9/- (each Rs.1.50 ps) and failed to issue tickets to a group of 6 passengers, who boarded the bus at Penumur and found alighting at Chipparapalle ex-stages 11 to 11/10 which constitutes misconduct under Reg.28(vi)(a) of APSRTC Employees' Conduct Regulations,1963.
2. For having violated the rule 'issue and start', when you were performing the service on the route Chittoor-Tirupati (V) Penumur on 2.7.94 which constitutes misconduct under Reg.28(xxxi) of APSRTC Employees' (Conduct) Regulations,1963.

After conducting a detailed enquiry into the matter, the petitioner was removed from service by an Order dated 7-11-1994 of the Depot Manager, APSRTC, Tirupathi-I Depot, Tirupathi. Aggrieved by the

same, he preferred an appeal and review; however, the same were rejected on 25-4-1995 and 6-7-1995 respectively. Therefore, the petitioner raised a dispute under Section 2-A(2) of the Industrial Disputes Act,1947 (for short the 'Act') before the 1st respondent. Before the Tribunal, no oral or documentary evidence was adduced by either side. However, on the basis of the record and counter, the Tribunal came to the conclusion that the petitioner was removed from service after 18 long years of unblemished service. The punishment of removal from service was too harsh and severe i.e. shockingly disproportionate to that of the misconduct alleged and while exercising its powers under Section 11-A of the Act, directed the respondent-management to reinstate the petitioner with continuity of service and to defer two annual grade increments with cumulative effect and further denied back wages and attendant benefits.

Now it is the contention of the learned counsel for the petitioner that the Tribunal having found that the punishment of removal from service is too harsh and severe ought not to have denied, at least, the attendant benefits and further could not have directed the Management to impose the punishment of deferment of two annual grade increments with cumulative effect and the denial of back wages would itself is a severe punishment. The Tribunal, therefore, has not properly exercised the discretion vested in it under Section 11-A of the Act.

However, learned counsel for the respondent-management supported the Award passed by the Tribunal and submitted that the Tribunal itself has taken a lenient view of the matter and directed reinstatement of the petitioner and no further lenience can be shown by this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the impugned Award and other material made available on

record.

The charge is that a check had taken place between stages 11 and 10 and the petitioner having collected Rs.9/- i.e. Re.1.50 each from a group of 6 passengers boarded at Chipparapalle ex-stages 11 and travelling to ex-stage 10, had not issued tickets. It was the case of the petitioner that he had collected the fare and he was in the process of issuing tickets; in the meanwhile, the check had taken place. Admittedly, the check had taken place within one fare stage distance and not after one fare stage distance. Under these circumstances, the Tribunal has rightly found that the punishment of removal from service is harsh and severe. Further, the petitioner had put in 18 years of unblemished service. But as contended by the learned counsel for the petitioner, the Tribunal while denying the back wages and attendant benefits ought not to have further directed the Management to impose a punishment of deferment of two annual grade increments with cumulative effect. This, in the facts and circumstances of the case, is unwarranted. Therefore, I deem it appropriate to modify the Award passed by the Tribunal as under:

> "In the result, an Award is passed setting aside the removal order against the workman and the Management is directed to reinstate the workman into service with continuity of service, but without any back wages and attendant benefits."

The Writ Petition is allowed to the extent indicated above. No order as to costs.

07-3-2007

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